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Attorney General of California  
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*Attorneys for Complainant*

FILED

JUL 23 2014

ACUPUNCTURE BOARD

8  
9 **BEFORE THE**  
**ACUPUNCTURE BOARD**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 1A-2012-66

12 **EUN WHA LEE,**  
13 **456 S. Harvard Blvd., #203**  
14 **Los Angeles, CA 90020**  
**Acupuncturist License No. AC 13320,**

**A C C U S A T I O N**

15 Respondent.

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19 Complainant alleges:

20 **PARTIES**

21 1. Terri Thorfinnson (Complainant) brings this Accusation solely in her official capacity  
22 as the Executive Officer of the Acupuncture Board.

23 2. On or about September 15, 2009, the Acupuncture Board issued Acupuncturist  
24 License Number AC 13320 to EUN WHA LEE (Respondent). The Acupuncturist License was in  
25 full force and effect at all times relevant to the charges brought herein and will expire on April 30,  
26 2015, unless renewed.

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1 **JURISDICTION**

2 3. This Accusation is brought before the Acupuncture Board (Board), Department of  
3 Consumer Affairs, under the authority of the following laws. All section references are to the  
4 Business and Professions Code unless otherwise indicated.

5 4. Section 4955 of the Code states, in pertinent part:

6 “The board may deny, suspend, or revoke, or impose probationary conditions upon, the  
7 license of any acupuncturist if he or she is guilty of unprofessional conduct.

8 “Unprofessional conduct shall include, but not be limited to, the following:

9 “. . .

10 “(i) Any action or conduct that would have warranted the denial of the  
11 acupuncture license.

12 “. . .”

13 5. Section 4955.1 of the Code states:

14 “The board may deny, suspend, revoke, or impose probationary conditions upon the license  
15 of any acupuncturist if he or she is guilty of committing a fraudulent act including, but not be  
16 limited to, any of the following:

17 “. . .

18 “(b) Committing a fraudulent or dishonest act as an acupuncturist.

19 “(c) Committing any act involving dishonesty or corruption with respect to the  
20 qualifications, functions, or duties of an acupuncturist.

21 “(d) Altering or modifying the medical record of any person, with fraudulent  
22 intent, or creating any false medical record.

23 “(e) Failing to maintain adequate and accurate records relating to the provision  
24 of services to their patients.”

25 6. California Code of Regulations, title 19, section 1399.453, states:

26 “An acupuncturist shall keep complete and accurate records on each patient who is given  
27 acupuncture treatment, including but not limited to, treatments given and progress made as a  
28 result of the acupuncture treatments.”

1 **COST RECOVERY**

2 7. Section 4959 of the Code states:

3 “(a) The board may request the administrative law judge, under his or her proposed  
4 decision in resolution of a disciplinary proceeding before the board, to direct any licensee found  
5 guilty of unprofessional conduct to pay to the board a sum not to exceed actual and reasonable  
6 costs of the investigation and prosecution of the case.

7 “(b) The costs to be assessed shall be fixed by the administrative law judge and shall not in  
8 any event be increased by the board. When the board does not adopt a proposed decision and  
9 remands the case to an administrative law judge, the administrative law judge shall not increase  
10 the amount of any costs assessed in the proposed decision.

11 “(c) When the payment directed in the board's order for payment of costs is not made by the  
12 licensee, the board may enforce the order for payment in the superior court in the county where  
13 the administrative hearing was held. This right of enforcement shall be in addition to any other  
14 rights the board may have as to any licensee directed to pay costs.

15 “(d) In any judicial action for the recovery of costs, proof of the board's decision shall be  
16 conclusive proof of the validity of the order of payment and the terms for payment.

17 “(e) All costs recovered under this section shall be considered a reimbursement for costs  
18 incurred and shall be deposited in the Acupuncture Fund.”

19 **Factual Summary**

20 8. Respondent treated husband and wife Mr. and Mrs. K.<sup>1</sup> one time at her acupuncture  
21 practice for injuries they sustained in an auto vs. auto accident. However, Respondent submitted  
22 billing and medical records to the insurance company of the driver of the other vehicle involved  
23 in the auto accident, which falsely documented treatment of 25 visits for Mr. and Mrs. K., billing  
24 the insurance company for \$6,165 for Mr. K. and \$6,175.00 for Mrs. K.

25  
26  
27 <sup>1</sup> The name of the patients are abbreviated to protect their privacy rights. The names will be provided to  
28 Respondent upon written request for discovery.

1 When questioned about the discrepancy by an investigator representing the Board, Respondent  
2 gave several inconsistent explanations concerning the medical records she created and maintained  
3 for Mr. and Mrs. K.

4 9. Respondent received a check in the amount of \$1,000.00 from Mr. and Mrs. K. for her  
5 acupuncture services. Respondent ultimately billed them \$630.00, however, Respondent never  
6 refunded the \$370.00 excess payment to the patients.

7 **FIRST CAUSE FOR DISCIPLINE**

8 **(Fraud)**

9 10. Respondent is subject to disciplinary action under 4955.1, subsections (b), (c), and (d)  
10 in that Respondent committed fraud in her care and treatment of her patients, Mr. and Mrs. K.  
11 The circumstances are as follows:

12 11. Complainant refers to and, by reference incorporates herein paragraphs 8 and 9,  
13 inclusive, above, as though fully set forth herein.

14 **SECOND CAUSE FOR DISCIPLINE**

15 **(Creation of False Medical Record)**

16 12. Respondent is subject to disciplinary action under 4955.1, subsection (e) and  
17 California Code of Regulations, title 19, section 1399.453 in that Respondent created false  
18 medical records for her patients. The circumstances are as follows:

19 13. Complainant refers to and, by reference incorporates herein paragraphs 8 and 9,  
20 inclusive, above, as though fully set forth herein.

21 **THIRD CAUSE FOR DISCIPLINE**

22 **(Unprofessional Conduct)**

23 14. Respondent is subject to disciplinary action under Respondent is subject to  
24 disciplinary action under section 4955, subsection (i) for unprofessional conduct. The  
25 circumstances are as follows:

26 15. Complainant refers to and, by reference incorporates herein paragraphs 8 and 9,  
27 inclusive, above, as though fully set forth herein.

28 **PRAYER**

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WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Acupuncture Board issue a decision:

1. Revoking or suspending Acupuncturist License Number AC 13320, issued to Eun Wha Lee;
2. Ordering her to pay the Acupuncture Board the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 4959;
3. If placed on probation, ordering her to pay to the Acupuncture Board the costs of probation monitoring;
4. Taking such other and further action as deemed necessary and proper.

DATED:           JUL 23 2014          



TERRI THORFINNSON  
Executive Officer  
Acupuncture Board  
Department of Consumer Affairs  
State of California  
*Complainant*

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1 KAMALA D. HARRIS  
Attorney General of California  
2 JUDITH T. ALVARADO  
Supervising Deputy Attorney General  
3 WENDY WIDLUS  
Deputy Attorney General  
4 State Bar No. 82958  
California Department of Justice  
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Los Angeles, California 90013  
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7 E-mail: [Wendy.Widlus@doj.ca.gov](mailto:Wendy.Widlus@doj.ca.gov)  
*Attorneys for Complainant*

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9 **BEFORE THE**  
**ACUPUNCTURE BOARD**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 1A-2012-66

12 **EUN WHA LEE, L.AC.**

**STATEMENT TO RESPONDENT**

13 Respondent.

[Gov. Code §§ 11504, 11505(b)]

14  
15  
16 TO RESPONDENT:

17 Enclosed is a copy of the Accusation that has been filed with the Acupuncture Board of the  
18 Department of Consumer Affairs (Board), and which is hereby served on you.

19 Unless a written request for a hearing signed by you or on your behalf is delivered or  
20 mailed to the Board, represented by Deputy Attorney General Wendy Widlus, within fifteen (15)  
21 days after a copy of the Accusation was personally served on you or mailed to you, you will be  
22 deemed to have waived your right to a hearing in this matter and the Board may proceed upon the  
23 Accusation without a hearing and may take action thereon as provided by law.

24 The request for hearing may be made by delivering or mailing one of the enclosed forms  
25 entitled "Notice of Defense," or by delivering or mailing a Notice of Defense as provided in  
26 section 11506 of the Government Code, to

27 //

28 //

1            **Wendy Widlus**  
2            **Deputy Attorney General**  
3            **Ronald Reagan Building**  
              **300 South Spring Street, Suite 1702**  
4            **Los Angeles, CA 90013**

5            You may, but need not, be represented by counsel at any or all stages of these proceedings.

6            The enclosed Notice of Defense, if signed and filed with the Board, shall be deemed a  
7            specific denial of all parts of the Accusation, but you will not be permitted to raise any objection  
8            to the form of the Accusation unless you file a further Notice of Defense as provided in section  
9            11506 of the Government Code within fifteen (15) days after service of the Accusation on you.

10           If you file any Notice of Defense within the time permitted, a hearing will be held on the  
11           charges made in the Accusation.

12           The hearing may be postponed for good cause. If you have good cause, you are obliged to  
13           notify the Office of Administrative Hearings, 320 West Fourth Street, Suite 630, Los Angeles,  
14           CA 90013, within ten (10) working days after you discover the good cause. Failure to notify the  
15           Office of Administrative Hearings within ten (10) days will deprive you of a postponement.

16           Copies of sections 11507.5, 11507.6, and 11507.7 of the Government Code are enclosed.

17           If you desire the names and addresses of witnesses or an opportunity to inspect and copy  
18           the items mentioned in section 11507.6 of the Government Code in the possession, custody or  
19           control of the Board you may send a Request for Discovery to the above designated Deputy  
20           Attorney General.

21                                    **NOTICE REGARDING STIPULATED SETTLEMENTS**

22            It may be possible to avoid the time, expense and uncertainties involved in an  
23            administrative hearing by disposing of this matter through a stipulated settlement. A stipulated  
24            settlement is a binding written agreement between you and the government regarding the matters  
25            charged and the discipline to be imposed. Such a stipulation would have to be approved by the  
26            Acupuncture Board but, once approved, it would be incorporated into a final order.

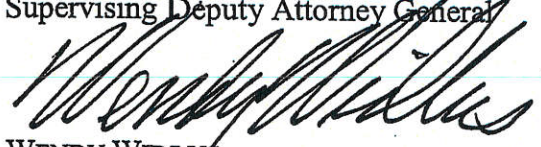
27            Any stipulation must be consistent with the Board's established disciplinary guidelines;  
28            however, all matters in mitigation or aggravation will be considered. A copy of the Board's

1 Disciplinary Guidelines will be provided to you on your written request to the state agency  
2 bringing this action.

3 If you are interested in pursuing this alternative to a formal administrative hearing, or if you  
4 have any questions, you or your attorney should contact Deputy Attorney General Wendy Widlus  
5 at the earliest opportunity.

6 Dated: July 7, 2014

KAMALA D. HARRIS  
Attorney General of California  
JUDITH T. ALVARADO  
Supervising Deputy Attorney General

  
WENDY WIDLUS  
Deputy Attorney General  
*Attorneys for Complainant*

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2 JUDITH T. ALVARADO  
Supervising Deputy Attorney General  
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Deputy Attorney General  
4 State Bar No. 82958  
California Department of Justice  
5 300 South Spring Street, Suite 1702  
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6 Telephone: (213) 897-2867  
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7 E-mail: [Wendy.Widlus@doj.ca.gov](mailto:Wendy.Widlus@doj.ca.gov)  
*Attorneys for Complainant*

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9 **BEFORE THE**  
**ACUPUNCTURE BOARD**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 1A-2012-66

12 EUN WHA LEE, L.AC.

**REQUEST FOR DISCOVERY**

13  
14 Respondent.

15 TO RESPONDENT:

16 Under section 11507.6 of the Government Code of the State of California, parties to an  
17 administrative hearing, including the Complainant, are entitled to certain information concerning  
18 the opposing party's case. A copy of the provisions of section 11507.6 of the Government Code  
19 concerning such rights is included among the papers served.

20 PURSUANT TO SECTION 11507.6 OF THE GOVERNMENT CODE, YOU ARE  
21 HEREBY REQUESTED TO:

- 22 1. Provide the names and addresses of witnesses to the extent known to the Respondent,  
23 including, but not limited to, those intended to be called to testify at the hearing, and  
24 2. Provide an opportunity for the Complainant to inspect and make a copy of any of the  
25 following in the possession or custody or under control of the Respondent:
- 26 a. A statement of a person, other than the Respondent, named in the  
27 initial administrative pleading, or in any additional pleading, when it is claimed that  
28

1 the act or omission of the Respondent as to this person is the basis for the  
2 administrative proceeding;

3 b. A statement pertaining to the subject matter of the proceeding made  
4 by any party to another party or persons;

5 c. Statements of witnesses then proposed to be called by the  
6 Respondent and of other persons having personal knowledge of the acts, omissions or  
7 events which are the basis for the proceeding, not included in (a) or (b) above;

8 d. All writings, including but not limited to reports of mental, physical  
9 and blood examinations and things which the Respondent now proposes to offer in  
10 evidence;

11 e. Any other writing or thing which is relevant and which would be  
12 admissible in evidence, including but not limited to, any patient or hospital records  
13 pertaining to the persons named in the pleading;

14 f. Investigative reports made by or on behalf of the Respondent  
15 pertaining to the subject matter of the proceeding, to the extent that these reports (1)  
16 contain the names and addresses of witnesses or of persons having personal  
17 knowledge of the acts, omissions or events which are the basis for the proceeding, or  
18 (2) reflect matters perceived by the investigator in the course of his or her  
19 investigation, or (3) contain or include by attachment any statement or writing  
20 described in (a) to (e), inclusive, or summary thereof.

21  
22 For the purpose of this Request for Discovery, "statements" include written statements by  
23 the person, signed, or otherwise authenticated by him or her, stenographic, mechanical, electrical  
24 or other recordings, or transcripts thereof, of oral statements by the person, and written reports or  
25 summaries of these oral statements.

26 YOU ARE HEREBY FURTHER NOTIFIED that nothing in this Request for Discovery  
27 should be deemed to authorize the inspection or copying of any writing or thing which is  
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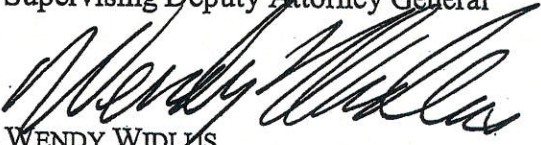
1 privileged from disclosure by law or otherwise made confidential or protected as attorney's work  
2 product.

3 Your response to this Request for Discovery should be directed to the undersigned attorney  
4 for the Complainant at the address on the first page of this Request for Discovery within 30 days  
5 after service of the Accusation.

6 Failure without substantial justification to comply with this Request for Discovery may  
7 subject the Respondent to sanctions pursuant to sections 11507.7 and 11455.10 to 11455.30 of the  
8 Government Code.

9 Dated: July 7, 2014

10 KAMALA D. HARRIS  
11 Attorney General of California  
12 JUDITH T. ALVARADO  
13 Supervising Deputy Attorney General

14   
15 WENDY WIDLOS  
16 Deputy Attorney General  
17 *Attorneys for Complainant*

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**BEFORE THE  
ACUPUNCTURE BOARD  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

**EUN WHA LEE, L.AC.**

Respondent.

Case No. 1A-2012-66

**NOTICE OF DEFENSE**

[Gov. Code §§ 11505 and 11506]

I, the undersigned Respondent in the above-entitled proceeding, hereby acknowledge receipt of a copy of the Accusation; Statement to Respondent; Government Code sections 11507.5, 11507.6 and 11507.7, Complainant's Request for Discovery; and two copies of a Notice of Defense.

I hereby request a hearing to permit me to present my defense to the charges contained in the Accusation.

Dated: \_\_\_\_\_

Respondent's Name: \_\_\_\_\_

Respondent's Signature: \_\_\_\_\_

Respondent's Mailing  
Address: \_\_\_\_\_

City, State and Zip Code: \_\_\_\_\_

Respondent's Telephone: \_\_\_\_\_

Respondent's Fax: \_\_\_\_\_

Respondent's E-mail: \_\_\_\_\_

**Check appropriate box:**

- I am represented by counsel, whose name, address and telephone number appear below:

Counsel's Name \_\_\_\_\_

Counsel's Mailing Address \_\_\_\_\_

City, State and Zip Code \_\_\_\_\_

Counsel's Telephone: \_\_\_\_\_

Counsel's Fax: \_\_\_\_\_

Counsel's E-mail: \_\_\_\_\_

- I am not now represented by counsel. If and when counsel is retained, immediate notification of the attorney's name, address and telephone number will be filed with the Office of Administrative Hearing and a copy sent to counsel for Complainant so that counsel will be on record to receive legal notices, pleadings and other papers.

The agency taking the action described in the Accusation may have formulated guidelines to assist the administrative law judge in reaching an appropriate penalty. You may obtain a copy of the guidelines by requesting them from the agency in writing.

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**BEFORE THE  
ACUPUNCTURE BOARD  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

**EUN WHA LEE, L.A.C.**

Respondent.

Case No. 1A-2012-66

**NOTICE OF DEFENSE**

[Gov. Code §§ 11505 and 11506]

I, the undersigned Respondent in the above-entitled proceeding, hereby acknowledge receipt of a copy of the Accusation; Statement to Respondent; Government Code sections 11507.5, 11507.6 and 11507.7, Complainant's Request for Discovery; and two copies of a Notice of Defense.

I hereby request a hearing to permit me to present my defense to the charges contained in the Accusation.

Dated: \_\_\_\_\_

Respondent's Name: \_\_\_\_\_

Respondent's Signature: \_\_\_\_\_

Respondent's Mailing  
Address: \_\_\_\_\_

City, State and Zip Code: \_\_\_\_\_

Respondent's Telephone: \_\_\_\_\_

Respondent's Fax: \_\_\_\_\_

Respondent's E-mail \_\_\_\_\_

**Check appropriate box:**

- I am represented by counsel, whose name, address and telephone number appear below:

Counsel's Name \_\_\_\_\_

Counsel's Mailing Address \_\_\_\_\_

City, State and Zip Code \_\_\_\_\_

Counsel's Telephone: \_\_\_\_\_

Counsel's Fax: \_\_\_\_\_

Counsel's E-mail: \_\_\_\_\_

- I am not now represented by counsel. If and when counsel is retained, immediate notification of the attorney's name, address and telephone number will be filed with the Office of Administrative Hearing and a copy sent to counsel for Complainant so that counsel will be on record to receive legal notices, pleadings and other papers.

The agency taking the action described in the Accusation may have formulated guidelines to assist the administrative law judge in reaching an appropriate penalty. You may obtain a copy of the guidelines by requesting them from the agency in writing.

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**COPY OF GOVERNMENT CODE SECTIONS 11507.5, 11507.6 AND 11507.7  
PROVIDED PURSUANT TO GOVERNMENT CODE SECTIONS 11504 AND 11505**

**SECTION 11507.5: Exclusivity of discovery provisions**

The provisions of Section 11507.6 provide the exclusive right to and method of discovery as to any proceeding governed by this chapter.

**SECTION 11507.6: Request for discovery**

After initiation of a proceeding in which a respondent or other party is entitled to a hearing on the merits, a party, upon written request made to another party, prior to the hearing and within 30 days after service by the agency of the initial pleading or within 15 days after the service of an additional pleading, is entitled to (1) obtain the names and addresses of witnesses to the extent known to the other party, including, but not limited to, those intended to be called to testify at the hearing, and (2) inspect and make a copy of any of the following in the possession or custody or under the control of the other party:

(a) A statement of a person, other than the respondent, named in the initial administrative pleading, or in any additional pleading, when it is claimed that the act or omission of the respondent as to this person is the basis for the administrative proceeding;

(b) A statement pertaining to the subject matter of the proceeding made by any party to another party or person;

(c) Statements of witnesses then proposed to be called by the party and of other persons having personal knowledge of the acts, omissions or events which are the basis for the proceeding, not included in (a) or (b) above;

(d) All writings, including, but not limited to, reports of mental, physical and blood examinations and things which the party then proposes to offer in evidence;

(e) Any other writing or thing which is relevant and which would be admissible in evidence;

(f) Investigative reports made by or on behalf of the agency or other party pertaining to the subject matter of the proceeding, to the extent that these reports (1) contain the names and addresses of witnesses or of persons having personal knowledge of the acts, omissions or events which are the basis for the proceeding, or (2) reflect matters perceived by the investigator in the course of his or her investigation, or (3) contain or include by attachment any statement or writing described in (a) to (e), inclusive, or summary thereof.

For the purpose of this section, "statements" include written statements by the person signed or otherwise authenticated by him or her, stenographic, mechanical, electrical or other recordings, or transcripts thereof, of oral statements by the person, and written reports or summaries of these oral statements.

Nothing in this section shall authorize the inspection or copying of any writing or thing which is privileged from disclosure by law or otherwise made confidential or protected as the attorney's work product.



## **SECTION 11507.7: Petition to compel discovery; Order; Sanctions**

(a) Any party claiming the party's request for discovery pursuant to Section 11507.6 has not been complied with may serve and file with the administrative law judge a motion to compel discovery, naming as respondent the party refusing or failing to comply with Section 11507.6. The motion shall state facts showing the respondent party failed or refused to comply with Section 11507.6, a description of the matters sought to be discovered, the reason or reasons why the matter is discoverable under that section, that a reasonable and good faith attempt to contact the respondent for an informal resolution of the issue has been made, and the ground or grounds of respondent's refusal so far as known to the moving party.

(b) The motion shall be served upon respondent party and filed within 15 days after the respondent party first evidenced failure or refusal to comply with Section 11507.6 or within 30 days after request was made and the party has failed to reply to the request, or within another time provided by stipulation, whichever period is longer.

(c) The hearing on the motion to compel discovery shall be held within 15 days after the motion is made, or a later time that the administrative law judge may on the judge's own motion for good cause determine. The respondent party shall have the right to serve and file a written answer or other response to the motion before or at the time of the hearing.

(d) Where the matter sought to be discovered is under the custody or control of the respondent party and the respondent party asserts that the matter is not a discoverable matter under the provisions of Section 11507.6, or is privileged against disclosure under those provisions, the administrative law judge may order lodged with it matters provided in subdivision (b) of Section 915 of the Evidence Code and examine the matters in accordance with its provisions.

(e) The administrative law judge shall decide the case on the matters examined in camera, the papers filed by the parties, and such oral argument and additional evidence as the administrative law judge may allow.

(f) Unless otherwise stipulated by the parties, the administrative law judge shall no later than 15 days after the hearing make its order denying or granting the motion. The order shall be in writing setting forth the matters the moving party is entitled to discover under Section 11507.6. A copy of the order shall forthwith be served by mail by the administrative law judge upon the parties. Where the order grants the motion in whole or in part, the order shall not become effective until 10 days after the date the order is served. Where the order denies relief to the moving party, the order shall be effective on the date it is served.

\*\*\*\*\*

**DECLARATION OF SERVICE BY MAIL**

In the Matter of the Accusation filed Against:

EUN WHA LEE

Case No. 1A-2012-66

I, the undersigned, declare that I am over 18 years of age and not a party to the within cause; my business address is 1747 North Market Boulevard, Suite 180, Sacramento, CA 95834. I served a true copy of the attached:

**STATEMENT TO RESPONDENT, ACCUSATION,  
REQUEST FOR DISCOVERY, NOTICE OF DEFENSE (2),  
GOVERNMENT CODE SECTIONS 11507.5, 11507.6 and 11507.7**

by certified/regular mail on each of the following, by placing same in an envelope(s) addressed (respectively) as follows:

NAME and ADDRESS

CERTIFIED MAIL NO.

Eun Wha Lee, L.Ac.  
456 S. Harvard Blvd., #203  
Los Angeles, CA 90020

7011 2970 0000 0657 2579

Wendy Widlus, DAG  
California Department of Justice  
Office of the Attorney General, HQE  
300 South Spring St., Ste. 1702  
Los Angeles, CA 90013

regular mail

Judith Alvarado, SDAG  
California Department of Justice  
Office of the Attorney General, HQE  
300 South Spring St., Ste. 1702  
Los Angeles, CA 90013

regular mail

Each said envelope was, on July 23, 2014, sealed and deposited in the U.S. mail box at Sacramento, California, the county in which I am employed, with the postage thereon fully prepaid for attempt at service on Respondent.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on July 23, 2014, at Sacramento, California.



DECLARANT